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EXAMINER

FIELDS, DORON D

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3623

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/820,741	Applicant(s) SUN ET AL.	
	Examiner DORON D. FIELDS	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Status of Claims

1. This non-final action is in reply to the amendment and arguments/remarks filed on July 21, 2008.
2. Claims 1 and 3-10 have been amended.
3. Claims 1-12 are currently pending and have been examined.

Response to Arguments

4. Applicant argues that "providing a "cycle" of negotiation chances is what the primary citation case, Hudda et al. fails to teach." and that in the present invention, "the method allows the buyers to go through all the negotiation modes provided by the system before the buyer finally makes his decision, unless the buyer reaches a deal before all the available negotiation modes are employed". In addition, applicant argues that Hudda "lets buyers decide if they want to start a price negotiation, and also let buyers decide if they want to try another negotiation mode after the previous negotiation fails, while the current application automatically provides all the negotiation modes it can provide, thereby increasing the chances/rate of reaching deals with buyers."

5. Examiner respectfully disagrees and, as shown in the rejection of claim 1 below, shows that the buyer is allowed to choose one of multiple price negotiation modes provided by the system (Applicant's claim 1 (b)) by selecting desired shopping service (Hubba, Figure 2). In addition, as shown in the rejection of claim 1 below, examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention that rejecting a "buy now" price and selecting a different shopping service, would constitute choosing one of the price negotiation modes not chosen if the current price negotiation mode did not yield an acceptable price (Applicant's claim 1 (e)). Furthermore, Applicant's statement that "the cited reference lets buyers decide if they want to start a price negotiation, and also let buyers decide if they want to try another negotiation mode after the previous negotiation fails" satisfies allowing "the buyers to go through all the negotiation modes provided by the system before the buyer finally makes his decision, unless the buyer reaches a deal before all the available negotiation modes are employed " (Applicant's argument)

6. Applicant argues that "Examiner has failed to provide an "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" for combining selected elements of Hudda with selected elements of Khan. KSR, 550 U.S. ___, 127 S. Ct. 1727 (2007)(p. 14 of published opinion)."

7. In response, Examiner, as shown in the rejection of claims 10-12 below, presents new "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" by showing that the combination of Hudda and Khan would have yielded predictable results and improved the system of Khan.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-12 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 1 recites method steps (a) through (f). As written, the steps describe only two possible paths - path 1, which includes steps (a), (b), (c), and (d), and terminates at step (d) once the price associated with the first price negotiation mode is acceptable and Path 2, which includes steps (a), (b), (c), (d), and (e), and terminates at step (d) once the price associated with an alternate price negotiation mode is acceptable. In addition, step (e) cannot be executed (*i.e.*, the loop terminated) once all of the price negotiation modes have been exhausted without acceptance of a product price as no alternate course of action is provided. As a result, step (f) can never be executed; the method steps will terminate at step (d) or reach an impasse in step (e). The claim is indefinite because, as written, the Examiner cannot ascertain which path/option occurs or how the method steps terminate. For the purposes of examination, the Examiner will address all the limitations of claim 1 assuming the recited steps were meant to capture the following method steps as described in the specification and drawings: selecting a product, choosing a price negotiation mode, negotiating a price, deciding on the presented or 'final' price (wherein if the price is acceptable then reaching a deal; else, abandoning the deal, choosing another

price negotiation mode, negotiating a price, and deciding on the price until all price negotiation modes have been exhausted).

Claims 2-12 depend from claim 1 and are similarly deficient.

Appropriate amendment is requested.

11. Claim 1 recites the limitation: “(f) *deciding on an action, after the price negotiation proceeded from the price negotiation modes been chosen is completed, the action selected from the group consisting of reaching a deal and abandoning a deal.*” Due to grammatical errors in the claim, Examiner, for the purpose of examination, interprets the claim to mean ‘deciding on an action once the price negotiation is completed; the action selected from the group consisting of reaching a deal and abandoning a deal’

Claims 2-12 depend from claim 1 and are similarly deficient.

Appropriate amendment is requested.

Claim Rejections - 35 USC § 101

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13. Claim 1-12 are rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions. For a process to be patentable subject matter under § 101 the process must (1) be tied to another statutory class of invention (such as a particular apparatus) or (2) transform subject matter to a different state or thing. See *Diamond v. Diehr*, 450 US 175, 184 (1981); *Parker v Flook*, 437 US 584, 588 n9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 US 780, 787-88 (1876). If neither of these requirements is met by the claim, the method is not a patent eligible process. To qualify under § 101 as a statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.

In the present case, claim 1 recites: “*A purchase method ... in a system providing a user ... to facilitate a purchase transaction through a computer program and a database ...*” However, recitation of using a

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computer system in the preamble is not a sufficient tie of the method (a process claim) to a particular apparatus because none of the steps in the process is recited as being performed by the “computer” system. Rather, reciting using a computer system in the preamble leaves open a broadest reasonable interpretation that all steps could be practiced by hand, by mental steps, or by using the computer in some nominal fashion, such as entering or displaying data or using the computer as a simple calculator. Lacking a sufficient tie to a particular apparatus, claim 1 and its dependents 2-12 are nonstatutory.

Appropriate amendment is required.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Hudda et al. (US-PGPUB: US 2001/0049636 A1).

Claim 1:

Hudda, as shown, discloses the following limitations:

A purchase method with price negotiation for facilitating a real-time purchase transaction in a system providing a user with real-time price inquiry and price negotiation to facilitate a purchase transaction through a computer program and a database, said method comprising the steps of:

- *(a) selecting a product to buy (see at least Figure 2, step 58 – ‘Goods added to shopping cart’ and associated text and page 3, paragraph 0059: “A consumer enters a specific store 50 and, using a wireless device that is either brought with a consumer or provided by the store, logs into the system of the present invention 52. Using, for example, a scanning capability on the wireless device, the consumer enters the UPC code of the desired goods 54.”);*

- *(b) choosing one of the multiple price negotiation modes provided by the system* (see at least Figure 2, step 60 – ‘Consumer selects desired shopping service’ and associated text) ‘page 6, paragraph 0097: “The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer.”);
- *(c) initiating the price negotiation with the price negotiation mode chosen;* (see at least Figure 2, step 60 – ‘Consumer selects desired shopping service’ and associated text and page 3, paragraphs 0097 - 0100: “The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer. These various options allow the consumer to obtain the goods at a favorable price. Additional functions also allow the consumer to have some flexibility in pricing. For example, the consumer can also request a volume discount when the number of shopping items in the shopping cart will exceed a certain dollar volume. The consumer can also register for any sale that is taking place, of which the consumer may not be aware. Buying clubs are also a way of obtaining goods at a favorable price.”)
- *(d) determining whether or not the product price is acceptable* (see at least Figure 2, steps 68 – ‘Consumer notified of result’ and 70 – ‘Consumer acts on result’ and associated text);
- *deciding on an action after the price negotiation proceeded from the price negotiation modes been chosen is completed, the action selected from the group consisting of reaching a deal and abandoning a deal* (see at least Figure 2, steps 68 – ‘Consumer notified of result’ and 70 – ‘Consumer acts on result’ and associated text and page 5, paragraph 0080: “If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes.”).

Hudda does not explicitly disclose the following limitation:

- *(e) if the product price is not acceptable and at least one of the price negotiation modes provided by the system has not been chosen yet, choosing one of the price negotiation modes not chosen, and returning to step (c);*

While Hudda does not explicitly disclose choosing another price negotiation mode once one is reject, it is implied in the teachings of Hudda. Hudda, on page 6, paragraphs 0097-0100 states: "The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer. These various options allow the consumer to obtain the goods at a favorable price. Additional functions also allow the consumer to have some flexibility in pricing. For example, the consumer can also request a volume discount when the number of shopping items in the shopping cart will exceed a certain dollar volume. The consumer can also register for any sale that is taking place, of which the consumer may not be aware. Buying clubs are also a way of obtaining goods at a favorable price."

Purchasing the goods immediately implies that a price is presented to the consumer. Rejecting the immediate purchase (*i.e.*, 'buy now') mode (*i.e.*, the product price is not acceptable) and selecting an alternate mode constitutes rejecting a product price and choosing a price negotiation mode not chosen.

Alternatively, Official Notice is taken that it is old and well known in the art of price negotiation to select a negotiation strategy and then negotiate a price. As part of price negotiation it is old and well known that the merchant and consumer can accept an offer, reject an offer, or make counteroffers. In addition, it is old and well known in the art of price negotiation to change the mode of negotiation once a current negotiation mode has failed. In markets around the world, consumers haggle over an item's price, and if not acceptable, seek an alternate negotiating mode including seeking a better price by offering to buy several items (identical, *i.e.*, quantity, or related, *i.e.*, bundle).

It would have been obvious to one of ordinary skill in the art at the time of the invention to choose an alternate price negation mode once the current mode has not resulted on an agreed upon price as per

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Hudda, page 6 paragraph 0098: "These various options allow the consumer to obtain the goods at a favorable price."

Claim 2:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein the purchase method is carried out in an Internet on-line transaction platform, a single machine, an open system or a closed system (see at least page 9, paragraphs 0132 and 0133: "In one embodiment, the consumer wireless devices 920 can be provided by a merchant to customers inside a merchant store 950 location. Such an arrangement could use a cellular telephone-type wireless network 910 that communicates with the system server 900 over the Internet 905 or could use a local wireless network 916 that uses shorter-range RF, such as IEEE 802.11, that communicates directly with a system server located in the store. In a more typical embodiment, the consumer wireless devices 920 are selected from the group consisting of personal digital assistants (PDAs) and cell phones. The consumer wireless devices 920 include means for inputting product or service identifiers, such as scanners, keypads, touchscreens, cameras, and voice-recognition devices.").*

Claim 3:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein the step (b) is conducted based on a user selection or a suggested price directly provided by a computer (see at least page 6, paragraph 0097: "The consumer then has a number of options available once the goods are added to the shopping cart. The consumer can purchase the goods immediately, bid on the goods at a price desired by the consumer, request that the store match the price of the goods offered in another location, and/or request that the store accept a specific offer other than the stated price from the consumer.").*

Claim 4:

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Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

One of the price negotiation modes being a mode of negotiating a price based on a quantity, wherein various discount prices are offered depending on a purchase quantity of a certain product, the price negotiation mode comprising the steps of:

- *entering a quantity of a product to buy* (see at least page 3, paragraph 0059: "A consumer enters a specific store 50 and, using a wireless device that is either brought with a consumer or provided by the store, logs into the system of the present invention 52. Using, for example, a scanning capability on the wireless device, the consumer enters the UPC code of the desired goods 54." Specifying a quantity, 1 through n, is inherent in selecting an item for purchase);
- *searching for a discount price based on the quantity* (see at least page 6, paragraph 0104: "As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases.");
- *returning a product price from the database* (see at least page 6, paragraphs 0104 and 0105 "The consumer then selects the shopping service desired which involves negotiating with the merchant 60. As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases. The server receives the consumer's desired choice and connects to the merchant's server 64. The merchant server processes the consumer's request 66 and the consumer is notified of the results 68."); *and*
- *determining whether or not the product price is acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.").

Claim 5:

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Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

One of the price negotiation modes being a mode of negotiating a price based on a bundle recommendation, wherein another product is recommended when selecting a certain product and a discount price is offered if both products are purchased, the price negotiation mode comprising the steps of:

- *searching for a suitable bundle product item in the database* (see at least page 6, paragraph 0101: "Additionally, and without limitation, the consumer may also inquire about other products which match the requirements for the desired product that the consumer would like to order. In this case, the server of the present invention will offer suggestions to the consumer for alternative goods that would be similar to those which the consumer desires to purchase, and which would be available on the specific store in which the consumer is located" and page 10, paragraph 0145: "The system server 900 can also suggest items to be purchased based on a variety of criteria");
- *reporting a product price from the database* (see at least page 6, paragraphs 0104 and 0105 "The consumer then selects the shopping service desired which involves negotiating with the merchant 60. As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases. The server receives the consumer's desired choice and connects to the merchant's server 64. The merchant server processes the consumer's request 66 and the consumer is notified of the results 68."); *and*
- *determining whether or not the product price is acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.").

Claim 6:

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Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

One of the price negotiation mode being a mode of negotiating a price based on a user credit, wherein a credit level is given to a user according to total transaction times and an accumulated transaction amount and various discount prices are offered depending on the credit level, the price negotiation mode comprising the steps of:

- *entering user data* (see at least page 4, paragraph 0069: "Consumers using the present invention can register with the server 22 through their individual wireless shopping devices 12,14 or through workstations or personal computers 10, 30 that are connected to the Internet.");
- *searching for a product price based on the credit level* (see at least page 6, paragraph 0100: "Buying clubs are also a way of obtaining goods at a favorable price. The consumer can inquire and will receive information from the server relating to any existing buying group which the consumer may be eligible to join and which will result in the consumer obtaining goods at a more favorable price. Further, the consumer may form a buying group and invite others to join the buying group in order to obtain favorable pricing" and page 6, paragraph 0104: " As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases.");
- *reporting the product price from the database* (see at least page 6, paragraphs 0104 and 0105 " The consumer then selects the shopping service desired which involves negotiating with the merchant 60. As noted above, such negotiations include bidding for the particular product, requesting a matching price, making an offer to the merchant, and/or obtaining a volume discount based upon total purchases. The server receives the consumer's desired choice and connects to the merchant's server 64. The merchant server processes the consumer's request 66 and the consumer is notified of the results 68."); *and*
- *determining whether or not the product price is acceptable* (see at least page 6, paragraph 0105: "Assuming that the merchant and the consumer have reached agreement on the specific method

of purchase as noted above, a unique encrypted code relating to the consumer's specific deal for the goods being purchased is sent to the consumer's wireless device 72.”).

Claim 7:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

one of the price negotiation modes being a mode of negotiating a price based on an immediately quoted purchase price, wherein a user quotes a given number of different purchase prices for a product and the product is sold at a quoted purchase price closest to but not lower than a reserve price set for the product, the price negotiation mode comprising the steps of:

- *entering a quoted purchase price* (see at least page 5, paragraph 0080: “Another form of in-store negotiation that takes place using the wireless shopping device 12, 14 is a bidding process ... The consumer can then notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired”);
- *determining whether or not the quoted purchase price is higher than the reserve price, and allowing a user to quote the given number of different purchase prices* (see at least page 5, paragraph 0080: “The merchant can then either accept the bid, reject the bid, or make a counteroffer for consideration.”);
- *returning to the step of entering a quoted purchase price if the quoted purchase price is lower than the reserve price* (see at least page 5, paragraph 0080: “The consumer can then notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired. The merchant can then either accept the bid, reject the bid, or make a counteroffer for consideration. If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes.” Accepting a bid, rejecting a bid, or making a counteroffer implies an iterative process); *and*
- *determining whether or not the quoted purchase price is acceptable if the quoted purchase price is higher than the reserve price* (see at least page 5, paragraph 0080: “The consumer can then

notify the merchant via the wireless shopping device and the server 22 that the consumer desires to pay only a certain price for the goods desired. The merchant can then either accept the bid, reject the bid, or make a counteroffer for consideration. If an agreement is reached, the consumer purchases the desired goods in a wireless fashion as noted above, receiving an authorization code for checkout purposes.”).

Claim 8:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein, in the step (f), if selecting to reach a deal from the group, the product is added to a shopping cart and a price record of the price negotiation is collected and saved in the database for use as an immediate price for next purchase (see at least page 6, column 0096: “If after a review of the product reviews, the consumer desires to purchase the goods in question, the consumer so indicates and the goods are added to the electronic shopping cart 58 of the consumer” and page 10, paragraph 0153: “In another embodiment, the system server 900 stores transaction data 906 for each consumer as an order history. By providing consumers access to the transaction history, consumers can identify products or services for purchase by selecting the product or service from the order history, thereby facilitating repeat purchasing.”).*

Claim 9:

Hudda discloses all the limitations of claim 1 as shown above. Furthermore, Hudda, as shown, discloses the following limitations:

- *wherein, in the step (f), if selecting to abandon a deal from the group, then a price record of the price negotiation is collected and saved in the database so that the price will be offered to a user in the future when the price is met or a price negotiation will be made directly with a supplier based on the price record of the price negotiation (see at least page 10, paragraph 0153: “In another embodiment, the system server 900 stores transaction data 906 for each consumer as an order history. By providing consumers access to the transaction history, consumers can identify products or services for purchase by selecting the product or service from the order history,*

thereby facilitating repeat purchasing” and page 10, paragraph 0154: “Another aspect of the present invention allows consumers to start buying groups using their wireless devices 920. The consumer requests initiation of a buying group for a product or service with said merchant using the consumer wireless device 920. The merchant can then accept said buying group by setting an initial price, setting a time period, agreeing to lower said price based on a volume of purchases through said buying group, and agreeing to sell the product or service at a conclusion of the time period to all members of the buying group at a final, lowered price.”).

16. Claims 10-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Hudda et al. (US-PGPUB: US 2001/0049636 A1) in view of Khan (US-PGPUB: US 2001/0056395 A1).

Claim 10:

Hudda discloses all the limitations of claim 1 as shown above. Hudda discloses a system and method for wireless purchases of goods and services which incorporates price negotiation. Hudda fails to teach accumulating price negotiation points.

However, Khan, as shown, discloses the following limitations:

- *further comprising accumulating price negotiation points prior to the step (a)* (see at least page 10, paragraphs 0131 and 0132: “Online Bargaining with Buyer ... In addition, the system is further configured to award purchase incentives selected from the group consisting of: ... b) purchase points provided upon purchase of products and services. The basis for providing purchase points will vary, depending on the price and quantity of product purchased, the referral of new purchasers and other product and service drivers, as may be referenced in the membership agreement.”).

Khan discloses an electronic bargaining system that enables buyers to bargain with the system in order to negotiate an optimum bargain price. As shown, the system incorporates accumulating purchase points. This known technique of accumulating purchase points is applicable to the system/method of Hudda as they both share characteristics and capabilities, namely, they are directed towards online price negotiation.

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One of ordinary skill in the art would have recognized that applying the known technique of Khan would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Khan to the teachings of Hudda would have yielded predictable results because of the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such price negotiation points into similar systems. Further, introducing the customer loyalty system of Khan (providing purchase points) to the price negotiation system/method of Hudda would have been recognized by those of ordinary skill in the art as a method of building customer loyalty and retention by rewarding loyal (*i.e.*, repeat) customers with preferred services and prices.

Claim 11:

Hudda, in view of Khan, discloses all the limitations of claim 10 as shown above. Hudda discloses a system and method for wireless purchases of goods and services which incorporates price negotiation. Hudda fails to teach accumulating price negotiation points on the basis of an accumulated transaction amount.

However, Khan, as shown, discloses the following limitations:

- *wherein the price negotiation points are accumulated on the basis of an accumulated transaction amount of on-line purchases and may be gained by purchasing a product or by participating in a special event* (see at least page 10, paragraph 0132: "In addition, the system is further configured to award purchase incentives selected from the group consisting of: ... b) purchase points provided upon purchase of products and services. The basis for providing purchase points will vary, depending on the price and quantity of product purchased, the referral of new purchasers and other product and service drivers, as may be referenced in the membership agreement.").

Khan discloses an electronic bargaining system that enables buyers to bargain with the system in order to negotiate an optimum bargain price. As shown, the system incorporates accumulating purchase points upon purchase of products. This known technique of accumulating purchase points on the basis of purchase of products is applicable to the system/method of Hudda as they both share characteristics and capabilities, namely, they are directed towards online price negotiation.

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One of ordinary skill in the art would have recognized that applying the known technique of Khan would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Khan to the teachings of Hudda would have yielded predictable results because of the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such price negotiation points into similar systems. Further, introducing the customer loyalty system of Khan (providing purchase points) to the price negotiation system/method of Hudda would have been recognized by those of ordinary skill in the art as a method of building customer loyalty and retention by rewarding loyal (*i.e.*, repeat) customers with preferred services and prices.

Claim 12:

Hudda, in view of Khan, discloses all the limitations of claim 10 as shown above. Hudda discloses a system and method for wireless purchases of goods and services which incorporates price negotiation. Hudda fails to teach deducting points for price negotiation of a product.

However, Khan, as shown, discloses the following limitations:

- *wherein, in the step (b), predetermined points are deducted for each price negotiation of a product, and the method returns to the step of accumulating price negotiation points if the points are insufficient* (see at least page 19, claim 70: "A system as recited by claim 65, further configured to permit buyer to request free chances, buy more chances at a predetermined chance purchase price, or redeem purchase points to buy more chances to bargain after the system program has stopped bargaining for a particular product or service.").

Khan discloses an electronic bargaining system that enables buyers to bargain with the system in order to negotiate an optimum bargain price. As shown, the system incorporates accumulating and redeeming purchase points upon purchase and price negotiation of products. This known technique of accumulating and redeeming purchase points is applicable to the system/method of Hudda as they both share characteristics and capabilities, namely, they are directed towards online price negotiation.

One of ordinary skill in the art would have recognized that applying the known technique of Khan would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Khan to the teachings of Hudda would have yielded predictable results because

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of the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such accumulation and redemption of price negotiation points into similar systems. Further, introducing the customer loyalty system of Khan (providing purchase points) to the price negotiation system/method of Hudda would have been recognized by those of ordinary skill in the art as a method of building customer loyalty and retention by rewarding loyal (*i.e.*, repeat) customers with preferred services and prices.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
- Bigus et al. (US-PAT-NO: US 6,401,080 B1) discloses an intelligent agent and method of negotiating;
 - Conklin et al. (US-PAT-NO: US 6,141,653) discloses a multivariate negotiations engine for iterative bargaining.

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Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Doron D. Fields** whose telephone number is **571.270.3107**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **BETH BOSWELL** can be reached at **571.272.6737**.

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/Doron D Fields/Examiner, Art Unit 3623
10 September 2008

/Beth V. Boswell/
Supervisory Patent Examiner, Art Unit 3623